

From Alexander Cherkasky
Prinz-Georg-Str. 5
40477 Duesseldorf
Germany
Tel: +49 211 482179
Email: alexcherkasky@googlemail.com

RECEIVED
CENTRAL FAX CENTER
APR 17 2009

Application No. 10/577,613
US 2007 0106066
Inventor: Alexander Cherkasky

Filing Date: 04/28/2006

Examiner: Kinsey White, Nicole Erin
Art Unit: 1648

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
U.S.A.

Dear Madam, Dear Sir,

The "Detailed Action" sent by the examiner Mrs. Dr. Kinsey White contains asserting and contending false statements.

I accept the temporary abeyance of drawings.

Regarding examiner's statements about the claims 20 and 28 on the page 5 of the "Detailed Action": a fusion protein can contain additional either GFP or membrane penetration domain.

On the page 2 is written: "The fusion proteins of Wahl et al meet these limitations. There is no requirement in the claim that the fusion protein inhibit cell division by binding microtubules."

The fusion proteins of Wahl et al do not meet these limitations and my fusion proteins are new and also papers of Lehtio et al, Shi et al, Chaplin et al and Yoshida et al do not contain material that could damage novelty of this my present invention.

On the page 7 is written: "Kobatake et al. discloses fusion proteins comprising maltose binding protein and Staphylococcal protein A." On the page 6 is written: Claims 22, 23 and 27 are rejected under 35 U.S. C. 102(b) as being anticipated by Kobatake et al (Journal of Biotechnology, 1995, 35:263-268). The claims are directed to fusion proteins comprising: regions selected from the group consisting of antibody binding regions, and microtubule-binding regions." On the page 8 is stated: "No claim is allowed."

The examiner Mrs. Dr. Kinsey White recognized, that the work of Kobatake et al discloses fusion proteins comprising only maltose binding protein and SPA.

All other combinations according to my present invention and all their uses are not covered by sent documents especially by paper of Kobatake et al, and patentable surplus remains and patentable weight remains.

The sent documents, especially the mentioned Kobatake's paper do not make this my invention unpatentable. This my invention is patentable. I assert that both fusion

From gmt
04/21/09

proteins and nucleic acids according to present invention will be considered as one invention.

The examiner uses the simple scheme: she finds something what may have any far relation to the matter and than states, that the found material damages novelty making the present invention unpatentable. Such kind of examination is not constructive and biased.

The documents sent by this examiner do not contain matter related to or damaging novelty of this my invention. I argued but my argumentation was ignored. The examiner contends, that the sent documents damage novelty, thus either this examiner does not understand, that my invention contains new patentable matter and in that case that would seem to mean incompetence or this examiner understands that for my invention the patent can be issued, but this examiner generates obstacles and wishes to prevent the issue of patent. In that case it could mean misuse of current position, for example in interests of any third party. This examiner seems to seek how to prevent the granting of patent, instead to recognize that my invention contains new matter for which the patent can be granted.

The creating obstacles by this examiner means not only obstacles for me as inventor but also for my invention, for it implementation, and thus for health and healthcare of many suffering people.

I do not recognize the constructive dialogue between applicant and examiner on the level, wherein both parties are willing to understand and accept objective arguments of each other, because this examiner does not wish to understand and accept my arguments.

I understand the examiner's statements, I am open to accept arguments and find a compromise, but I anticipate that also this examiner is also not closed for accepting my arguments.

I ask, that this patent application will be delegated to other examiner, because this examiner seems to be biased.

Sincerely,



Alexander Cherkasky